

**4107. Misbranding of "Dr. Emmons' Throat and Lung Healer" and "Tissue Builder." U. S. v. The Dr. Emmons Throat and Lung Healer Co. Plea of guilty. Fine, \$100 and costs. (F. & D. No. 5919. I. S. Nos. 522-e, 6654-e.)**

At the May, 1915, term of the District Court of the United States for the District of Indiana, the grand jurors of the United States within and for said district, acting upon a report by the Secretary of Agriculture, upon presentment by the United States attorney for said district, returned an indictment against the Dr. Emmons Throat and Lung Healer Co., a corporation, Richmond, Ind., charging shipment by said defendant company, in violation of the Food and Drugs Act, as amended, on or about September 5, 1912, and February 13, 1913, from the State of Indiana into the State of Michigan, of quantities of "Dr. Emmons' Throat and Lung Healer" and "Tissue Builder" which was misbranded. The product was labeled: (Label on small bottle) "Dr. Emmons' Throat and Lung Healer. The Great Throat and Lung Remedy. Pour All This Medicine Into the Instrument. Contains not more than 65 per cent Alcohol. Guaranteed under the Food and Drug Act, June 30, 1906. Guarantee No. 18620. Richmond, Ind." (Blown in bottle) "Dr. Emmons' Throat and Lung Healer." (Label on inhaler) "Dr. Emmons' Throat and Lung Healer The Great Throat and Lung Remedy Pour All This Medicine Into the Instrument. Contains not more than 65 per cent Alcohol. Guaranteed under the Food and Drug Act, June 30th, 1906. Guarantee No. 18620." (On carton) "Dr. Emmons' Throat and Lung Healer. (Picture of man using inhaler) This cut shows how Dr. Emmons' Throat and Lung Healer can 'get to the spot' or anywhere the breath goes and destroys the germs that damage these parts. Heals all tissue damage. The Medical Wonder of the Age. Richmond, Ind. Dr. Emmons' Throat and Lung Healer. The Great Throat and Lung Remedy. Pour all This Medicine Into the Instrument. Contains not more than 65 per cent Alcohol. Guaranteed under the Food and Drug Act, June 30th, 1906. Guarantee No. 18620." (Label on large bottle) "Dr. Emmons' Tissue Builder. The Tissue Builder tones up the system, causes exceptional nutrition and the extra flesh and strength due to it. The Tissue Builder may be used alohe for any below-par, sub-normal, or run-down condition, as it gives one strength and good, sound, firm flesh; but we especially desire in this connection to mention it as an adjunct to the local use of the Throat and Lung Healer, which it materially assists by giving all tissues of the body greater vitality and power to resist the attack of microbes and disease. The Tissue Builder is sold at One Dollar a bottle or Six Bottles for Five Dollars, if ordered at one time. Directions: Take a tablespoon of the Tissue Builder 3 times a day before meals. Dr. Emmons' Throat & Lung Healer Co., Richmond, Ind. Contains not more than 20% Alcohol." (Back of bottle) "Free Sample. Dr. Emmons' Tissue Builder. The Tissue Builder tones up the system, causes exceptional nutrition and the extra flesh and strength due to it. The Tissue Builder may be used alone for any below-par, sub-normal, or run-down condition, as it gives one strength and good, sound, firm flesh; but we especially desire in this connection to mention it as an adjunct to the local use of the Throat and Lung Healer, which it materially assists by giving all tissues of the body greater vitality and power to resist the attack of microbes and disease. The Tissue Builder, large sized Bottles, is sold at one dollar a bottle or six bottles for five dollars, if ordered at one time. Directions: Take a tablespoon of the Tissue Builder 3 times a day, before meals."

Analyses of samples of the products by the Bureau of Chemistry of this department showed the following results:

## "Throat and Lung Healer."

Alcohol (per cent)-----	62.7
Nonvolatile matter (per cent)-----	31.8
Iodin (per cent)-----	0.04
Ash (per cent)-----	0.014
Phenol (per cent)-----	1.08
Glycerin: Present.	

Product is a hydroalcoholic solution containing iodine (small amount), glycerin, and phenol.

## "Tissue Builder."

Alcohol (per cent by volume)-----	10.35
Nonvolatile matter (per cent)-----	50.9
Sugar (per cent)-----	47
Calcium hypophosphite (per cent)-----	2.1

Iron, magnesium, aluminium, and nitrates: Traces.

Proteids: None.

Product is a hydroalcoholic solution containing calcium hypophosphite and sugar, and traces of magnesium and aluminium salts.

Misbranding of the article shipped September 5, 1912, was charged in the indictment for the reason that the following statements regarding the therapeutic or curative effects thereof, appearing on the labels aforesaid, to wit, (On small bottle and carton) " \* \* \* Throat and Lung Healer. The Great Throat and Lung Remedy," "Dr. Emmons' Throat and Lung Healer. \* \* \*" "Dr. Emmons' Throat and Lung Healer can 'get to the spot' or anywhere the breath goes and destroys the germs that damage these parts. Heals all tissue damage. \* \* \* Throat and Lung Healer. The Great Throat and Lung Remedy," were false and fraudulent in that the same were applied to said article knowingly and in reckless and wanton disregard of their truth or falsity so as to represent falsely and fraudulently to the purchasers thereof, and create in the minds of purchasers thereof the impression and belief, that it was in whole or in part composed of, or contained, ingredients or medicinal agents effective, among other things, as a throat and lung healer and remedy, and effective for destroying germs in the respiratory tract and for healing all tissue damage, when, in truth and in fact, said article was not in whole or in part composed of, and did not contain, ingredients or medicinal agents effective, among other things, as a throat and lung healer or remedy, or effective for destroying germs in the respiratory tract or for healing all tissue damage. Misbranding of the article shipped February 13, 1913, was charged for the reason that the following statements regarding the therapeutic or curative effects thereof, appearing on the label aforesaid, to wit, " \* \* \* Throat and Lung Healer. The Great Throat and Lung Remedy," were false and fraudulent in that the same were applied to said article knowingly and in reckless and wanton disregard of their truth or falsity so as to represent falsely and fraudulently to the purchasers thereof, and create in the minds of the purchasers thereof the impression and belief, that it was in whole or in part composed of, or contained, ingredients or medicinal agents effective as a throat and lung healer and remedy, when, in truth and in fact, said article was not in whole or in part composed of, and did not contain, ingredients or medicinal agents effective as a throat and lung healer or remedy.

On May 10, 1915, the defendant company entered a plea of guilty to the indictment, and the court imposed a fine of \$100 and costs.

CARL VROOMAN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., December 4, 1915.